

BEFORE THE BOARD OF REAL ESTATE APPRAISERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the) NOTICE OF AMENDMENT
amendment of ARM 24.207.401,) AND ADOPTION
and the adoption of NEW RULES)
I and II, pertaining to trainee)
and mentor requirements)

TO: All Concerned Persons

1. On September 25, 2003, the Board of Real Estate Appraisers published MAR Notice No. 24-207-20 regarding the public hearing on the proposed amendment and adoption of the above stated rules relating to trainee and mentor requirements at page 2035 of the 2003 Montana Administrative Register, issue no. 18.

2. On October 21, 2003, a public hearing on the proposed amendment and new rules was conducted in Helena, Montana, and members of the public spoke at the public hearing. In addition, written comments were received prior to the closing of the comment period on October 28, 2003.

3. The Board of Real Estate Appraisers (Board) has thoroughly considered all of the comments made. A summary of the comments received (grouped by rule) and the Board's responses are as follows:

24.207.401 FEES

COMMENT 1: Two comments were received stating that the proposed fees seemed excessive.

RESPONSE 1: The Board notes it is required by 37-1-134, MCA, to set fees that are commensurate with costs. The Board believes that proposed fees are commensurate with the costs of trainee licensing and oversight. To lower the fees paid by trainees would result in a portion of the cost of implementing Chapter 341, Laws of 2003 (Senate Bill 432) being subsidized by licensed real estate appraisers, which the Board concludes is not allowed by 37-1-134, MCA.

NEW RULE I (24.207.517) TRAINEE REQUIREMENTS

COMMENT 2: Several commenters were in general agreement with the proposed rule change but felt the limitation in section 10 of NEW RULE I [limiting trainees to working within 100 miles of the mentor's business address] was inappropriate because electronic media access makes it unnecessary to geographically limit experience.

RESPONSE 2: The Board states that it was the Board's original intent to require a 100 mile radius (within Montana) for residential appraisers but to allow anywhere in Montana for certified general appraisers because of differences in the degrees of knowledge between the licenses. The Board has amended NEW RULE I accordingly.

COMMENT 3: One commenter stated that "there is no requirement of education for the trainee and I would be more in support of a person having maybe two years college if not a college degree."

RESPONSE 3: The Board notes that NEW RULE I(3) provides that a trainee have completed at least 40 hours of approved qualifying instruction in the principles of real estate appraisal before being granted a license as a trainee. Additional formal education (50 hours) is also required (after having been granted a trainee license). The Board believes that the minimum of 40 hours of approved education in the specific field of real estate appraisal principles provides a greater level of assurance of knowledge than two years of unspecified (and perhaps totally inapplicable) college education. Additional education is a subject that may be addressed in the future.

COMMENT 4: One commenter suggested that a setting similar to an internship or clerkship be developed for individuals interested in this occupation. "The trainees could enroll in a class and the trainer could take them to a site and have them work up an appraisal."

RESPONSE 4: The Board believes that the trainee-mentor relationship is designed to provide a training experience similar to an internship or clerkship, and the two NEW RULES implement that relationship.

COMMENT 5: Two commenters wrote to express their concern about hours already accumulated and the possibility they would lose those existing hours if the new rules go into effect.

RESPONSE 5: The Board notes that NEW RULE I does, in fact, allow for current training experience to be counted.

NEW RULE II (24.207.518) MENTOR REQUIREMENTS

COMMENT 6: One commenter stated "it should be discretionary on the part of the mentor as to how many trainees the mentor could have" with a suggested cap of no more than four or five trainees. The commenter also suggested that it might be appropriate for a 'discount rate' for more than three trainees.

RESPONSE 6: The Board considered this comment and believes that a high level of professionalism is required and, done

properly, being a mentor will be very time intensive. For that reason the Board has determined that two is the proper number of trainees to be mentored at any particular time by a single licensed appraiser. The Board also stated that under section 37-1-134, MCA, fees must be commensurate with costs. Given the amount of time spent processing each trainee's application and reviewing submitted appraisal reports, the Board believes the cost for each additional trainee will be the same for the additional trainee as it would be for only one trainee. For that reason, the Board believes there should be no discount rate for additional trainees.

4. During preparation of this Notice, staff noticed that NEW RULE I(1)(c) contained a typographic error. The rule subsection erroneously refers to real estate appraisal "principals" instead of real estate appraisal "principles". The correction is noted in paragraph 6, below.

5. The Board has amended ARM 24.207.401 and adopted NEW RULE II (24.207.518) exactly as proposed.

6. After considering the comments, and because clarification is needed, the Board of Real Estate Appraisers adopted NEW RULE I (24.207.517) with the following changes, deleted matter interlined, new matter underlined:

NEW RULE I (24.207.517) TRAINEE REQUIREMENTS

(1) through (1)(b) remain as proposed.

(c) have completed 40 hours of approved qualifying education in the ~~principals~~ principles of real estate appraisal prior to making application; and

(d) through (9) remain as proposed.

(10) A trainee shall perform qualifying experience within Montana and within a 100 miles radius of the mentor's business address for residential appraisals. A trainee is not geographically limited for non-residential assignments in Montana.

(11) remains as proposed.

AUTH: 37-1-131, 37-54-105, MCA

IMP: 37-1-131, 37-54-105, 37-54-201, 37-54-202, 37-54-303, 37-54-403, MCA

BOARD OF REAL ESTATE APPRAISERS
TIMOTHY MOORE, CHAIRMAN

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

/s/ WENDY J. KEATING
Wendy J. Keating, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State January 5, 2004.